

REQUEST FOR APPROVAL

To: Howard Levenson, Deputy Director
Materials Management and Local Assistance Division

From: Cara Morgan, Branch Chief
Local Assistance and Market Development

Request Date: July 18, 2012

Decision Subject: 2007/2008/2009 Jurisdiction Review Findings for the Source Reduction and Recycle Element, Household Hazardous Waste Element for the Following Jurisdiction: Fresno County; City of Mendota.

Action By: August 21, 2012

Summary of Request:

A key component in maintaining the success of AB 939, the Integrated Waste Management Act of 1989, is CalRecycle's role in overseeing how well cities and counties are implementing the diversion programs that they each have selected as a part of their Source Reduction and Recycling Element (SRRE) and Household Hazardous Waste Element (HHWE).

This Request for Approval addresses the City of Mendota's Jurisdiction Review for 2007/2008/2009. Local Assistance and Market Development (LAMD) staff reviewed the City's programs in 2010, as part of the review of 58 jurisdictions for that cycle, and found that the City was not meeting the diversion requirement and had significant program gaps. The program gaps included improving residential recycling by increasing education, implementing commercial, multifamily, and school recycling, and ensuring government recycling programs were in place.

As a result of LAMD staff's review the City was forwarded to the Jurisdiction and Product Compliance Unit (JPCU) for further investigation. Additionally, LAMD staff informed the City of the program gaps, that it was to be reviewed independently by JPCU, and that the City could avoid a Compliance Order if the program gaps were addressed. During the time of JPCU's review, the City was able to address the program gaps by expanding and implementing new diversion programs.

Recommendation: While the City did not meet its [50 percent equivalent per capita disposal target](#) in 2009 it has since addressed the program gaps. Therefore, LAMD and JPCU have determined that the City of Mendota has made all reasonable and feasible efforts to implement diversion programs, and should be determined as having made a good faith effort to implement its SRRE and HHWE programs, as required by Public Resources Code Sections 41780 and 41825, respectively.

Deputy Director Action:

On the basis of the information and analysis in this Request for Action and the findings set out

above, I hereby approve the Jurisdiction Review findings for 2007/2008/2009 for the jurisdiction noted above.

Dated: _____

Howard Levenson, Deputy Director
Materials Management and Local Assistance

Attachments: The attachments to this Request for Approval contain summaries of the information that staff used for the evaluation:

1. Staff Jurisdiction Analysis Summary City of Mendota, Fresno County, 2007-09 CalRecycle Jurisdiction Review Cycle
- 2a. Jurisdiction Disposal Rate Trend -- provides a summary of the jurisdiction's 50% equivalent per capita disposal target and annual per capita rate.
- 2b. Jurisdiction Program Summary Report -- contains a SRRE and HHWE diversion program listing.

Background Information

A key component in maintaining the success of AB 939, the Integrated Waste Management Act of 1989, is CalRecycle's role in overseeing how well cities and counties are implementing the diversion programs that they each have selected as part of their Source Reduction and Recycling Element (SRRE) and Household Hazardous Waste Element (HHWE). Public Resources Code (PRC) Section 41825 specifies that CalRecycle periodically and independently review each jurisdiction's progress in implementing its programs and in meeting the AB 939 diversion requirement and that CalRecycle make a finding of whether each jurisdiction was in compliance with PRC Section 41780 during the review period.

As a result of its review, CalRecycle may find that a jurisdiction:

- 1) Has adequately implemented its diversion programs and has achieved the diversion requirement;
- 2) Has not achieved the diversion requirement, but has made a good faith effort to implement diversion programs; or,
- 3) Has failed to adequately implement its SRRE and/or HHWE and the process should commence to consider whether issuance of a compliance order would be appropriate. Jurisdictions that fail to satisfy the conditions of a compliance order may be subject to a fine of up to \$10,000 per day.

Senate Bill 1016 (Statutes of 2008, Chapter 343) amended the PRC Sections 41825 and 41850. As a result of this legislation, the 50 percent diversion requirement is now measured in terms of per-capita disposal expressed as pounds per person per day. The new per capita disposal and goal measurement system moves the emphasis from an estimated diversion measurement number to using an actual disposal measurement number as a factor, along with evaluating program implementation efforts. These two factors are used by staff to help determine each jurisdiction's

progress toward achieving its Integrated Waste Management Act (AB 939) diversion goals. This change in legislation also codified that the focus of CalRecycle's evaluation is on program implementation, instead of estimated diversion rates being the determinative factor for compliance.

Staff's analysis of program implementation is based upon the Countywide Integrated Waste Management Plan Enforcement Policy Part II, originally adopted (by CalRecycle's predecessor, the California Integrated Waste Management Board) in August 2001 and revised, pursuant to SB 1016, in June 2010. Staff utilizes the criteria delineated in the Enforcement Policy to determine the extent to which a jurisdiction has implemented, or shown a good faith effort to implement, its selected diversion programs. For those jurisdictions that did not meet their per-capita disposal requirement, staff evaluates their program implementation to determine if they have made a good faith effort to implement the programs selected in their SRRE. The scenarios in the Enforcement Policy Part II provide illustrative criteria to serve as examples of the issues that staff utilizes in examining local jurisdiction program implementation.

If the Local Assistance and Market Development (LAMD) staff recommends a finding that a jurisdiction is not implementing its SRRE and/or HHWE programs, then that jurisdiction is referred to CalRecycle's Jurisdiction and Product Compliance unit (JPCU) for a second independent evaluation. If warranted, the JPCU then submits a separate Request for Approval recommending that the jurisdiction be placed on a compliance order. If the jurisdiction addresses the program deficiencies during the JPCU evaluation, then they can be recommended as having made a good faith effort and avoid being placed on a Compliance Order.

City of Mendota

This Request for Approval concerns staff's follow-up to its initial review during the 2007/08/09 Jurisdiction Review cycle, which was conducted in 2010-2012. CalRecycle reviewed the jurisdiction's SRRE and HHWE program implementation and its per-capita disposal rate.

Local Assistance and Market Development (LAMD) staff conducted the review of the City of Mendota's programs and found that it was not meeting the diversion requirement and that there were significant program gaps. The program gaps that needed to be addressed included improving residential recycling by increasing education, implementing commercial, multifamily and school recycling, and ensuring government recycling programs were in place.

As a result of this review, the City's status was forwarded to the Jurisdiction and Product Compliance Unit (JPCU) for further investigation since JPCU is responsible for providing an independent review of potential enforcement actions. Additionally, LAMD staff informed the City of the program gaps, that it was be reviewed independently by JPCU and that the City could avoid a Compliance Order if the programs were addressed. During the time of JPCU's review, which covered March 2011 through May 2012, the City was able to address the program gaps by expanding and implementing new diversion programs. Both LAMD and JPCU staff have conducted site visits to verify these programs. LAMD staff will continue to work with the City to ensure progress continues on these programs.

The following is a summary of how the City has addressed its diversion program gaps:

Residential Curbside Recycling

The City and its hauler increased residential curbside recycling by increasing public education efforts. The hauler developed and distributed bi-lingual information to residents and attended community events to raise awareness about the City's curbside recycling program. The hauler also addressed contamination by implementing a cart tagging program, where contaminated carts are tagged to inform the resident of what should and should not be placed in the bins.

Commercial Recycling Collection Program

On May 24, 2011, the City Council cited the fact that "few businesses within the City of Mendota have procured recycling containers," and adopted an ordinance requiring businesses to use all-in-one rates to pay for both trash and recycling. In June 2011, the hauler began citywide distribution of commercial recycling containers; the rollout was completed in July 2011. As a result, during staff's most recent site visit, all businesses had or shared recycling bins. Staff observed that the bins generally contained clean recyclables.

Multifamily Recycling Collection Program

In June 2011, the City began distributing containers for a mandatory multifamily recycling program; the roll-out was completed in July 2011. Accordingly, during staff's most recent site visit, all of the City's multifamily locations had recycling containers. The hauler will continue to participate in outreach events to educate tenants.

School Recycling Program

There are five schools within City limits, and one of these schools is a small alternative education program. All of the schools now have recycling service. During the most recent site visit, the schools were using their recycling and garbage bins properly.

City Government Diversion Program

The City has instituted recycling programs at all government locations, including City Hall. The City educates employees with a waste reduction tip sheet and posters. Also, the City has recycling bins at the park.

Findings

Based on its analysis and JPCU's investigation findings, Local Assistance and Market Development staff finds that while the City of Mendota did not meet the 50% equivalent per-capita disposal requirement in 2009, it has made a good faith effort to implement its diversion programs. Staff will continue to monitor the City's progress in implementing its programs as well as reducing contamination in the residential and commercial sectors.